

THE CASE of the Lord Mayor and Aldermen OF L O N D O N, UPON

The PETITION of some of the Common-Council Men, presented to the Honourable House of Commons, with his Lordships and the Aldermens Answer to the Charge exhibited against them in the said Petition.

Licens'd Decemb. 13. 1690.

The first Charge in the Petition is,
That several Aldermen now act (who were so made by Charter or Commissions from the late King James) under some doubtful Expressions in the late Act of Parliament for reverting the Judgment against the City.

Answer.

That there are now 26 Aldermen, 10 of them were so when the said Judgment was given against the City, and some of them afterwards continued to act as Aldermen by Commissions from Charles the 1st. and James the 2^d. viz. Sir William Pritchard the first Mayor by Commission, Sir John Moore, Sir Rob. Jefferies, Sir Jonathan Raymond, Sir Peter Daniel, and Sir Peter Rich; and as for Sir Rob. Clayton, Sir John Lawrence and Sir Parience Ward, who were three of the said ten, they refused to Act by any Commission, but do now act as Aldermen, all the said ten Aldermen being restored to their Offices by the said late Act of Parliament.

That as to the other 16 Aldermen, 14 of them were after the late K. James his Charter of Restoration to the City all chosen by their respective Wards, according to the ancient Custome, (the Wards for which they were chosen being vacant either by the Deaths or Surrenders of the Persons who were Aldermen thereof at the time of the said Judgment) and 2 of the said 16 were chosen according to Custome since the said Act of Parliament; so that the whole Court of Aldermen, by Vertue of the said Act of Parliament is now settled upon their ancient Foundation, and act not by any Commission whatsoever.

That the Petitioners pretence of some doubtful Words in the Act of Parliament, is because it doth not confirm the Aldermen, (duely chosen as aforesaid) Aldermen being not named in the Act. But this is a meer Cavil without ground; for that all Officers, Ministers, and Persons holding any Places or Employments in the City are confirm'd in their Places; and an Alderman is as considerable an Officer as any in the City, (except the Mayor) he is a Judicial of the Court of Aldermen and Court of Orphans, by the ancient Oath of an Alderman, he is sworn to be true to the King and City in the Office of an Alderman; and in all Acts of Parliament where Aldermen are named, its called the Office of an Alderman, viz. 13 Car. 2. and 14 Car. 2. about

Corporations; and in the Writs of Mandamus its called the Office of Alderman.

The second Charge.

That Sir Tho. Pilkington was by the said Aldermen on the day of Election appointed by the said Act of Parliament, declared and made Mayor, tho not duely returned by the Common-Hall according to Custome.

Answer.

That it will be proved beyond contradiction, that the Common-Hall was duely call'd, a fair Poll was taken, that the present Lord Mayor and Sir Jonathan Raymond had the Majority of the Poll, that they two were by the Sheriffs returned to the Court of Aldermen, who according to Custome did choose the present Lord Mayor.

That Sir Robert Adams and some others, after the Poll was closed, and while it was casting up, demanded of the Sheriffs a Scrutiny thereof, which was granted; that afterwards the Sheriffs came into the Common-Hall and declared the Poll, and that a Scrutiny was demanded and granted, and that the next day the Sheriffs sent to the said Sir Robert Adams, and the others who demanded the Scrutiny, that the day following they would proceed upon the Scrutiny; accordingly the Sheriffs met at the time appointed, and the said Sir Robert Adams and the other Persons came, but they refused to proceed therein, saying, they were satisfied with the Declaration the Sheriffs had made of the Poll in the Common-Hall.

Perhaps it may be objected, That there is a By-law, That no Person can be Mayor two Years together: Let that whole By-law be read, and it will appear to have been Enacted, that for avoiding the Charges of that Office, none shall be compelled to hold a second Year, (that is, against his Will.) But the now Mayor before his last Election had not held the Office for one whole Year, though he had two pieces of two several Years, and then the said Act of Parliament happening, he was chosen, not according to Custome, which the said By-law refers to, but by the said Act of Parliament, which ordains a Mayor to be chosen, and to hold for longer than a Year.

And further, if by the said By-law the last Election of the present Lord Mayor be pretended void, or that he is unduely elected, and that Sir William Pritchard, who was Mayor when the said Judgment was given against the City, ought by the said Act of Parliament to be Mayor:

Answer.

Whether this be so or not, is only tryable in *Westminster-Hall*, and for that purpose the said *Sir William Pritchard* the last *Mayor* brought his Writ of *Mandamus* to be admitted to the Office of Mayor, and a Return was made thereto, That the present Mayor was duly elected according to the said Act of Parliament; which if not true, *Sir William Pritchard* might have brought, and may still bring his Action, and try the said matter.

The Third Charge is,

That by the Contrivance of the Mayor and Aldermen, Mr. *Robinson* is imposed on the Petitioners as Chamberlain, tho another Person was duly elected to that Office, viz. *Sir Peter Rich*.

Answer.

It will be proved, That in the Common Hall, upon view of the Hands, the Sheriffs declared Mr. *Robinson* to be chosen; but a Poll was demanded and granted, and upon the Casting it up, *Sir Peter Rich* had the Majority by three: Then a Scrutiny was demanded and granted, and *Sir Peter Rich* had several times notice given him to be at the Scrutiny, but he refused to come.

That the Scrutiny of the Poll was afterwards proceeded in, whereby it appeared that there were Fifty whole polled for *Sir Peter Rich*, and Seventeen for Mr. *Robinson*, that were not Livery men, whereby *Robinson* had the Majority by 30.

That Oath being made of all this matter before the Court of Aldermen, by their Oaths they could not refuse the Swearing and admitting the said *Robinson* Chamberlain.

That the said *Sir Peter Rich* looking upon himself injured, brought his Writ of *Mandamus* to be admitted Chamberlain, to which Writ the Mayor and Aldermen returned, That he was not elected Chamberlain.

That the said *Sir Peter Rich* thereupon brought his Action against the Lord Mayor in the *Kings Bench* for making the said Return; to which he hath appeared, and upon the tryall thereof it will appear whether the said *Sir Peter Rich* be chosen or not, and if it shall be found for him, he will recover his damages; which is conceived to be a much more Legal method for trying that matter than the Petitioners.

The fourth Charge,

That divers Members of the Common Council are excluded, and others duly elected are refused their Admittances.

Answer.

The pretence for this, is, That the 10th. of June last was the day appointed by the said Act of Parliament for the electing all the Common Council Men of the City: That *Sir Peter Rich* in *Aldersgate Ward*, and *Sir Tho. Kensley* in *Dowgate Ward* severally denied the Poll tho demanded, and chose such Common Council men as they pleased: *Sir Peter Rich* swore his Common Council Men, but *Sir Tho. Kensley* did not swear his.

That complaint being thereof made to the Court of Aldermen, they upon full hearing of the parties on both sides, and examining several Witnesses upon Oath, did adjudge both the said pretended Elections to be void, and that those who were Common Council men at the time of the said Judgment, ought by the said Act of Parliament to serve till St. Thomas's Day next, but many of the Petitioners being met in Common Council, pretended the right to judge of the Election of Common Council men belong-

ed to the Common Council, tho the constant usage and practice, (time out of mind) as appears by the Ancient Records, is for the Court of Aldermen to judge thereof; and if these Common Council-men so as aforesaid excluded, think themselves prejudiced by the said Judgment of the Court of Aldermen, they may bring their Writs of *Mandamus* to be restored.

The fifth Charge is,

That the place of Town-Clerk hath been vacant three months, and is eligible only in Common Council, the Mayor and Aldermen have appointed several Persons to execute the same without the consent of the Common Council.

Answer.

That the choice of a Town-Clerk was at first by the Common Council desired to be put off for some time; and since that, the Petitioners have so tumultuously and seditiously demeaned themselves in Common Council, because they could not be admitted to choose a Committee to judge of the said two Elections of Common Council-men, adjudged (as aforesaid) void. That the Petitioners did peremptorily declare in Common Council they would not proceed in any business of the City.

The sixth Charge is,

That the Petitioners have not been suffered to meet and consult about the necessary Affairs of the City.

Answer.

That there have been eight Common Councils since June last, which are more than have been in some years before: But the Petitioners behaviour and obstinacy rendered them ineffectual, they declaring they would do none of the City's business, unless they might judge first of the said two Elections of Common-Council-Men; which they never did, nor can legally do, having no power to give an Oath, nor did they ever examine a Witness in any Cause whatsoever.

The seventh Charge.

That the third of August last a Common Council was summoned, and the Majority agreed, that an Address should be made to the House of Commons to explain the said late Act of Parliament, but the Mayor refused to put the Question, and immediately dissolved the Court.

Answer.

That the Petitioners were so very clamorous and rude, that they would not suffer any Question to be put about the City's business; that there was not any thing proposed by any man to be a pretended doubt in the said Act of Parliament, nor any matter mentioned as a ground whereupon to put any such Question, nor what words of the Act of Parliament they would have explained.

That as some of the Petitioners made a motion for such a senseless Question, so others opposed it, and nothing could be brought to a Question, the heat and noise of the Petitioners was so great. Nor did the Lord Mayor dissolve the Court till several of the Common Council men moved for it. But admit the Petitioners had upon a fair question carried it, That an Address should be made to the House of Commons, to explain the said late Act of Parliament; yet the Mayor and Aldermen (by an Act of Council made the 6th of June, 1683. *Sir William Pritchard* then Mayor) might have refused it, they by that Act having a negative voice upon any thing the Commons shall propose to them.